

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 LINDA L. SUN
Deputy Attorney General
4 State Bar No. 207108
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-6375
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-694

13 **MANAL MUSTAFA QAQI, AKA**
14 **MANAL MUSTAFA QAGI**
8213 Raintree Circle
Culver City, CA 90230

A C C U S A T I O N

15 Registered Nurse License No. 751209

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs (Board).

23 2. On or about June 3, 2009, the Board issued Registered Nurse License No. 751209 to
24 Manal Mustafa Qaqi, aka Manal Mustafa Qagi (Respondent). The Registered Nurse License was
25 in full force and effect at all times relevant to the charges brought herein and will expire on
26 January 31, 2015, unless renewed.

27 ///

28 ///

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

7
8
9
0
1
2
3
4
5
6
7
8

1
2
3
4
5
6
7
8

78

3

1 7. Code section 492 states:

2 "Notwithstanding any other provision of law, successful completion of any diversion
3 program under the Penal Code, or successful completion of an alcohol and drug problem
4 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of
5 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
6 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that
7 division, from taking disciplinary action against a licensee or from denying a license for
8 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
9 record pertaining to an arrest.

10 "This section shall not be construed to apply to any drug diversion program operated by any
11 agency established under Division 2 (commencing with Section 500) of this code, or any
12 initiative act referred to in that division."

13 8. Code section 2761 states:

14 "The board may take disciplinary action against a certified or licensed nurse or deny an
15 application for a certificate or license for any of the following:

16 "(a) Unprofessional conduct

17

18 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
19 functions, and duties of a registered nurse, in which event the record of the conviction shall be
20 conclusive evidence thereof. . . ."

21 9. Code section 2762 states, in pertinent part:

22 "In addition to other acts constituting unprofessional conduct within the meaning of this
23 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
24 chapter to do any of the following:

25

26 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
27 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
28 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to

1 himself or herself, any other person, or the public or to the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license.

3 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
4 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
5 or the possession of, or falsification of a record pertaining to, the substances described in
6 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
7 thereof."

8 10. Code section 2765 states:

9 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
10 charge substantially related to the qualifications, functions and duties of a registered nurse is
11 deemed to be a conviction within the meaning of this article. The board may order the license or
12 certificate suspended or revoked, or may decline to issue a license or certificate, when the time
13 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an
14 order granting probation is made suspending the imposition of sentence, irrespective of a
15 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person
16 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict
17 of guilty, or dismissing the accusation, information or indictment."

18 REGULATORY PROVISIONS

19 11. California Code of Regulations, title 16, section 1444, states, in pertinent part:

20 "A conviction or act shall be considered to be substantially related to the qualifications,
21 functions or duties of a registered nurse if to a substantial degree it evidences the present or
22 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
23 safety, or welfare. . . ."

24 COST RECOVERY

25 12. Code section 125.3 provides, in pertinent part, that the Board may request the
26 administrative law judge to direct a licentiate found to have committed a violation or violations of
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
28 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Conviction of a Substantially-Related Crime)**

5 13. Respondent's license is subject to disciplinary action under Code sections 490 and
6 2761, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444,
7 in that Respondent was convicted of a crime substantially related to the qualifications, functions,
8 or duties of a registered nurse which to a substantial degree evidences her present or potential
9 unfitness to practice in a manner consistent with the public health, safety, or welfare, as follows:

10 a. On or about July 21, 2011, pursuant to her *nolo contendere* plea, Respondent was
11 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
12 [driving while having 0.08%, or more, by weight, of alcohol in blood], in the criminal proceeding
13 entitled *The People of the State of California v. Manal Mustafa Qaqi* (Super. Ct. Los Angeles
14 County, 2011, No. 1VY02586). The Court sentenced Respondent to serve 13 days in jail or pay a
15 \$390 fine, placed her on probation for a period of 36 months, and ordered her to complete a First
16 Offender Alcohol Counseling Program, among others.

17 b. The circumstances surrounding the conviction are that on or about May 14, 2011, a
18 California Highway Patrol Officer observed Respondent to be weaving in and out of lanes on the
19 freeway. After making contact with Respondent, the officer observed Respondent to have
20 exhibited objective symptoms of intoxication. Respondent admitted to the officer that she had
21 been drinking wine at home several hours earlier. Respondent agreed to a series of field sobriety
22 tests, which she failed to complete satisfactorily. Both of Respondent's breath tests yielded
23 results of .12% BAC.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Alcohol Related Conviction)**

26 14. Respondent's license is subject to disciplinary action under Code sections 2761,
27 subdivision (a), and 2762, subdivision (c), on the grounds of unprofessional conduct, in that on or
28 about July 21, 2011, Respondent was convicted of a crime involving the consumption of

1 alcoholic beverages. Complainant refers to, and by this reference incorporates, the allegations set
2 forth above in paragraph 13, inclusive, as though set forth fully.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Dangerous Use of Drugs and/or Alcohol)**

5 15. Respondent's license is subject to disciplinary action under Code sections 2761,
6 subdivision (a), and 2762, subdivision (b), on the grounds of unprofessional conduct, in that
7 Respondent used drugs and/or alcohol to an extent or in a manner dangerous or injurious to
8 herself, any other person, or the public, or to the extent that such use impairs her ability to
9 conduct with safety to the public the practice authorized by her license. Complainant refers to,
10 and by this reference incorporates, the allegations set forth above in paragraph 13, inclusive, as
11 though set forth fully.

12 **ADDITIONAL DISCIPLINARY CONSIDERATIONS**

13 16. To determine the degree of discipline, if any to be imposed on Respondent,
14 Complainant alleges the following:

15 a. On or about April 07, 2004, in the criminal proceeding entitled *The People of the*
16 *State of California v. Manal Mustafa Qaqi* (Super. Ct. Riverside County, 2004, No. INF046809),
17 Respondent pled guilty to one count of violating Health and Safety Code section 11550,
18 subdivision (a) [under the influence of controlled substances, a misdemeanor]. Judgment was
19 deferred pursuant to Penal Code section 1000 *et. seq.* Respondent was ordered to complete a
20 diversion program. On or about September 22, 2005, upon having successfully completed
21 diversion, the Court ordered the case dismissed and sealed.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

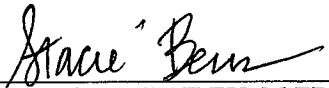
28 ///

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Registered Nurse License No. 751209, issued to Manal Mustafa Qagi, aka Manal Mustafa Qagi;
2. Ordering Manal Mustafa Qagi, aka Manal Mustafa Qagi to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: MARCH 2, 2013

for 
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

LA2012507134
51237874.doc
11/20/12-IC